

Remarks

1. The applicant offers no substantive amendments to the claims as currently pending in this application since, in the applicant's view, the claims define an invention that is both novel and non-obvious over the prior art of record.
2. It is the Examiner's view that claims 1, 3, 10, 12, 14, 18, 20, 22 and 24 are unpatentable under 35 U.S.C. 103(a) having regard to the combination of Hendricks et al (US6201536) and Hodge et al (US6564381). It will be noted that this is a new combination of references not previously contemplated by the applicant.
3. In the Examiner's view, Hendricks teaches all of the limitations of, for example, claim 1, save that it fails to specifically disclose communicating content in response to requests for the content. However, the Examiner contends that Hodge discloses a video distribution system wherein a super hub controller will determine when content is to be distributed in response to requests by motion picture studios as to how and when the content is to be distributed for ensuring maximum revenue distribution from broadcast video programs. The Examiner then concludes that it would have been obvious to one skilled in the art to modify Hendricks' system to include communicating content in response to requests for the content, as taught by Hodge, for ensuring maximum revenue distribution from broadcast video programs. Presumably, the Examiner is suggesting that the super hub controller of Hodge is equivalent to the operation center of Hendricks.
4. Applicant respectfully disagrees. Under no reasonable interpretation can the operations center of Hendricks be considered to be a "content providing server". Similarly, it is not reasonable to construe the headend of Hendricks as comprising a "distribution server".

5. Even if one accepts the Examiner's construction of the content of Hendricks as indicated above, Hendrick fails to also disclose the operations center providing control data including a "respective offset value" as required by claim 1 of the present application. The operations center of Hendricks does provide a "program control information signal" to the headend (column 8, lines 31 to 43), but it is clear from the disclosure of Hendricks that this signal does not include any data relating to an "offset value" nor, as will become apparent, is it possible to modify the system of Hendricks for it to do so.

6. The Examiner has indicated that Hendricks fails to specifically disclose communicating content in response to requests for the content. Thus, the Examiner looks to Hodge for this undisclosed limitation of claim 1. Applicant respectfully disagrees. Column 34, lines 31 to 44 of Hendricks discloses that *"Near video on demand (NVOD) is a program delivery technique which makes use of a program displayed on multiple program channels where the program has staggered start times over the multiple channels. By staggering the start times of the program across multiple channels, a subscriber 292 may be presented with a menu that displays a number of programs which are available for NVOD selection. Once the subscriber 292 selects a particular program, the request is transmitted upstream 246 either directly to the network manager 214 or indirectly to the network manager 214 through the authorization component 236. In either event, the network manager 214 must determine the next available and nearest start time of the program to be displayed in order to accommodate the subscriber's 292 request."* It can be seen that once a request for content is transmitted upstream to the network manager 214 of the headend 208, the network manager 214 determines the next available start time in response to the request for content. Thus, contrary to the Examiner's suggestion that Hendricks fails to disclose communicating content in response to requests for the content, it is clearly disclosed that Hendricks does disclose this feature. However, in contrast to the present invention as defined by claim 1, Hendricks also discloses that it is the headend ("distribution server") and not the

operations center ("content providing server") that establishes the offset value for staggering program transmission.

7. First, it can be concluded that Hendricks and Hodge do not disclose all the limitations of claim 1. Further, a skilled person would have no reason to look to Hodge for the feature of "communicating content in response to requests for the content" because this feature is already disclosed by Hendricks. Further still, notwithstanding that a skilled person would have no motivation to combine the disclosures of Hendricks and Hodge, the modification of the system of Hendricks to make the operations center provide control data to communicate content in response to requests for the content would directly conflict with the operation of the network manager 214 of the headend 208 in processing subscriber's requests for content.

8. In view of the foregoing, it is respectfully submitted that the combination of Hendricks and Hodge fails to disclose all of the limitations of claim 1, that a skilled man would have no motivation to combine the disclosures of these references and that to modify the system of Hendricks to the feature suggested by the Examiner as found in Hodge would not produce a useful result but would create conflict in the system so modified, i.e. there can be no reasonable expectation of success. Consequently, claim 1 is not rendered obvious by the combination of Hendricks and Hodge.

9. Referring now to independent claim 5, neither Hendricks nor Hodge discloses the feature "*generate at least a first and a second onward data streams for transmission to at least a first and a second client terminator units, respectively, in response to the control data and incoming data stream*" (emphasis added). As already demonstrated, a skilled person would have no motivation to combine the disclosures of Hendricks and Hodge and would have no expectation of success even if he attempted to do so. Therefore, claim 5 is not rendered obvious by the combination of Hendricks and Hodge.

10. Referring to independent claim 10, neither Hendricks nor Hodge teaches *"receiving at a distribution server control data and an incoming data stream corresponding to content, the incoming data stream being received from the content providing server: in response (to the control data and incoming data stream), generating at least a first and a second onward data streams"* (additional wording inserted for emphasis). As already demonstrated, a skilled person would have no motivation to combine the disclosures of Hendricks and Hodge and would have no expectation of success even if he attempted to do so. Therefore, claim 10 is not rendered obvious by the combination of Hendricks and Hodge.

11. The forgoing analysis applies as appropriate to independent claims 14, 18 and 22. Therefore, these claims are not rendered obvious by the combination of Hendricks and Hodge.

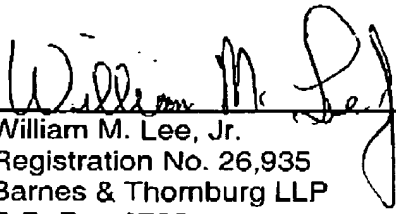
12. The Examiner's rejection of the dependent claims is moot in view of the foregoing.

13. Applicant requests favourable reconsideration of the claims as presented herein without alteration and previously considered.

14. This response is filed within two months of the mailing of the final Office Action as May 13, 2006 was a Saturday.

May 15, 2006

Respectfully submitted,


William M. Lee, Jr.
Registration No. 26,935
Barnes & Thornburg LLP
P.O. Box 2786
Chicago, Illinois 60690-2786
(312) 214-4800
(312) 759-5646 (fax)

CHDS01 WJFF.333074v1